

This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 01 OF 02 KUWAIT 004402

SIPDIS

SENSITIVE

STATE PLEASE PASS USTR FOR PBURKHEAD  
STATE PLEASE PASS USPTO FOR PFOWLER

E.O. 12958: N/A

TAGS: [ECON](#) [ETRD](#) [KIPR](#) [PREL](#) [KU](#) [IPR](#)

SUBJECT: UPDATE ON KUWAIT IPR EFFORTS

REF: KUWAIT 3222

1. (SBU) Summary: While Kuwait's elevation to the Special 301 Priority Watch List in 2004 galvanized some GOK agencies into action, overall the GOK has not made significant progress in enforcement actions, rewriting copyright laws, or prosecuting violators. Officials say steps will be taken after Ramadan to improve coordination between Interior and Commerce ministries responsible for IPR enforcement. Post has nominated 5 GOK officials for USPTO training in December.  
END SUMMARY

Kuwait IPR: Where we Stand Now

2. (SBU) When the U.S. and Kuwait signed a Trade and Investment Framework Agreement (TIFA) in April 2004, USTR emphasized that Kuwait's poor record on IPR needed improvement in order for the process to move forward. USTR again stressed the need for IPR reform during the first TIFA Council meeting in April 2004. Since that time, however, the GOK has not made significant progress in enforcement actions, rewriting its copyright laws, or in the prosecution of violators.

3. (SBU) Piracy rates in Kuwait are among the highest in the world. According to the 2004 Special 301 Report, motion picture piracy is 95 percent of sales; the police have not systematically enforced intellectual property rights. In addition to optical media, vendors openly sell a wide range of pirated and counterfeit items, including pharmaceuticals and auto parts, without significant fear of police intervention. When Kuwaiti police do raid businesses selling pirated goods - pirated optical media are typically targeted - they usually seize large quantities of material. However, prosecutions are rare and most violators simply pay a small fine and affirm in writing that will not sell such items again.

4. (SBU) Kuwait's elevation to the Special 301 Priority Watch List in 2004 appears to have galvanized some GOK agencies to take IPR seriously, especially Kuwaiti Customs and the Ministry of Commerce (MOC). However, significant legal inadequacies and bureaucratic disinterest remain. Kuwait's copyright law is still TRIPS-incompliant, and while the increasing frequency of raids of shops selling pirated goods shows promise, the Ministry of the Interior (charged with enforcing copyright protections) prosecutes very few offenders. In May 2005, the GOK announced the creation of an inter-ministerial IPR coordination committee that would form interagency inspection teams to carry out joint raids. However, the continued failure to prosecute offenders is a serious concern. Penalties for IPR violations are weak, and while draft legislation would provide for tougher sentences, the National Assembly has yet to take up the bill for discussion.

Follow-up Meeting with MOC Inspection Director

5. (SBU) Econoff met the Ministry of Commerce Inspection Department Director Mansour Al-Nazhan on October 10 to follow up on issues discussed during Econoff's previous meeting with Al-Nazhan on July 18 (REFTEL). Al-Nazhan explained that the long-awaited interagency committee formed by the Council of Ministers would convene shortly after the end of Ramadan, and would "work out the mechanism" for correcting the long-standing lack of coordination between the MOC and the MOI. Al-Nazhan said the MOI is focused solely on optical media piracy; while the MOC is mandated to inspect all types of products; and that the MOI does not always share with MOC its information about non-optical media piracy. Al-Nazhan expects that MOC Assistant U/S Abd Al-Aziz Mishaan Al-Khaldi will ultimately head this committee.

6. (SBU) Al-Nazhan stated that the MOC now has around 400 inspectors throughout Kuwait City, generally in teams of 12-18 based in each district. He stated that his inspectors seize goods only when found in small quantities. When inspectors discover large caches of goods they close the shop, warehouse or flat, and seal the door with wax. The MOI

has the authority to seize and destroy the goods, but only after a court order is issued, usually 1-2 months after the raid. One point Al-Nazhan emphasized was that his inspectors meet periodically to map out their raids, and make every effort to inspect shops systematically, targeting high-piracy areas and returning regularly to known violators. He stated he was confident that the raids were making a difference. Nevertheless, he acknowledged that the volume of pirated products (mainly from China) is steadily increasing.

17. (SBU) Al-Nazhan provided Econoff and LES a copy of a binder containing 72 reports of raids conducted during the first six months of 2005. The reports were thorough, and a copy of each report is sent to the MOI for use in prosecution. Al-Nazhan said MOI claims to fine offenders approximately \$220 to \$7200 per violation depending on the volume of contraband involved. He said he could not confirm these MOI claims due to the lack of prosecution information. Econoff also saw forms provided by the Arabian Anti-Piracy Alliance (AAA) which Al-Nazhan's inspectors use to log raids. Al-Nazhan complained that the forms are long and overly complex and take too much time to complete. When asked if he would be willing to keep a log of his inspectors' activity if the record keeping procedure were simplified, he eagerly agreed. Post will work with industry representatives in designing a more user-friendly reporting form.

Looking Forward

-----

18. (SBU) Post has nominated five individuals to participate in USPTO training in December (two from the MOC, two from MOI, and one from Customs). Post expects that these individuals, along with others who have completed USPTO training in the past, will constitute a core group of effective IPR enforcers. Post will also work with newcomers to the IPR game in the GOK - a new Assistant U/S and new legal advisor at MOI - to press for copyright law change and IPR enforcement consistent with international standards.

LEBARON